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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 9 OF THE CONVENTION

Twelfth periodic report of States parties due in 1995

Addendum

MAURITIUS*

[27 November 1995]

Introduction**

1. This report deals with the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the General Assembly of the United Nations on 21 December 1965 and ratified by Mauritius on 29 June 1972.

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* This document contains the eighth, ninth, tenth, eleventh and twelfth periodic reports due on 29 June 1987, 1989, 1991, 1993 and 1995 respectively. For Mauritius' seventh report and the summary record of the meetings at which the Committee considered that report, see documents CERD/C/131/Add.8 and CERD/C/SR.782 and 792.

The information submitted by Mauritius in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic document HRI/CORE/1/Add.60.

** The annexes to this report are available for consultation in the files of the Secretariat.

2. This report constitutes the eighth, ninth, tenth, eleventh and twelfth periodic reports under article 9, paragraph 1, of the Convention. It is drafted in the light of the general guidelines regarding the form and content of reports to be submitted by States parties under article 9 of the Convention, prepared by the Committee on the Elimination of Racial Discrimination.

I. GENERAL

3. Mauritius is an island of 720 square miles with a population estimated to be about 1.2 million. The last population census took place in 1990 when the total population amounted to 1,056,660. There is no native Mauritian and the population is composed of immigrants who came from India, Africa, Malagasy, China and Europe.

4. The pluriethnic background of the population finds its roots in the history of Mauritius.when the country was under the occupation of the French and, subsequently in 1810 of the British Empire. After the emancipation of African and Malagasy slaves, indentured field labourers were brought from India. Their descendants now form a majority of the population alongside the so-called "general population", Muslims and persons of Chinese origin. The "general population" is composed of persons of Creole and European origins. They are mostly Christians. The last two population censuses, which were carried out in 1983 and 1990 respectively, do not indicate a breakdown of the population on a communal basis in line with government policy to promote a Mauritian identity amongst its people regardless of the ethnic background of the inhabitants of the island (see annex 1).

5. There exists in Mauritius a parliamentary democracy led by a Prime Minister assisted by a Council of Ministers. The head of State is the President who is elected by a majority of all members of the Assembly on a motion made by the Prime Minister. The State of Mauritius holds free and fair national and local elections at regular intervals, supervised by an independent Electoral Commission.

6. The National Assembly consists of 70 members of whom 62 are elected and the remaining 8 are selected from among the best losers at the elections on a communal and party basis. The best loser system was adopted when Mauritius achieved its independence in 1968 having as its objective a fair representation of all ethnic cross-sections of the population in the National Assembly.

7. A major source of legal protection against discrimination, racial or otherwise, is the Mauritian Constitution.

8. Under section 1 of the Constitution it is provided that Mauritius shall be a sovereign democratic State. When read in the light of the other existing provisions under the Constitution this implies that Government has a duty to make the principles of democracy the norm in all areas of society and to promote opportunities to enable each component of the population to preserve his own cultural and community, including ethnic, linguistic and religious, life.

9. Similarly, chapter II of the Constitution, which guarantees the fundamental rights and freedoms of the individual, requires the courts, administrative authorities and all those who work in public administration to respect the equality of everyone before the law and act with objectivity and impartiality.

10. Under section 3 of the Constitution it is specifically provided that all citizens shall have access to human rights and fundamental freedoms without discrimination by reason of race, place of origin, political opinion, colour, creed or sex. This provision is further reinforced by section 16 which provides that no law shall be discriminatory on the ground of race, caste, place of origin, colour, creed or sex.

11. The fact that the prohibition of discrimination is guaranteed by the Constitution is significant in that:

(a) Any person whose rights have been contravened under chapter II may seek redress to the Supreme Court under section 17 of the Constitution;

(b) The guarantees afforded by the Constitution are such that they cannot be taken away without the cumbersome process of securing a three-quarter majority vote in the National Assembly;

(c) The Constitution being the "supreme law of the land", it is the duty of the Supreme Court not only to interpret but also to enforce obedience to its provisions. Any statutory law which is inconsistent with the provisions laid down in the Constitution shall be treated as having no legal effect and declared null and void by the Supreme Court.

12. The Convention itself can be resorted to should the occasion arise and any matter connected therewith may be referred to the courts of the country in addition to or exclusive of the existing provisions of the law. The provisions of the Convention are of a persuasive character in view of the frequent pronouncements of the courts emphasizing the importance of respecting and adhering to international obligations contracted by the State of Mauritius. The recent decision of the Supreme Court in the case of Pointu v. The Minister of Education and Science (1995 SCR No. 53810) illustrates the willingness of the courts to decide an issue involving fundamental rights and freedoms in harmony with international human rights instruments.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

13. Following the recent decision of the full bench of the Supreme Court in the case of Pointu v. The Minister of Education and Science (see annex 2), it is now an established legal principle that both sections 3 and 16 of the Constitution must be given a generous and purposive construction and read in the light of section 1 (supra).

14. A proper reading of section 1, which provides that Mauritius shall be a sovereign democratic State, clearly means that the State of Mauritius is to be administered in accordance with the other provisions of the Constitution which contain the essence of democratic principles.

15. Furthermore, it can be gathered from the same decision that the concept of equality before the courts and equal protection of the law as laid down under section 3 of the Constitution has always existed in the laws of Mauritius as far back as 1793 when the French Constitution of 1789 was made applicable to Mauritius.

16. Section 16, which prohibits the passing of any law that is discriminatory of itself or in its effect, is subject to certain exceptions under section 16 (5). Those exceptions do not in any diminish the constitutional status of section 16 as all constitutional rights are subject to the enjoyment of their constitutional rights by others and to the higher interest of the State (sect. 3).

17. Under section 10 of the Constitution, which makes similar provisions and offers similar guarantees to article 26 of the International Covenant on Civil and Political Rights, to which Mauritius is a signatory, it is worth mentioning the following provisions in relation to the present Convention:

(a) The right of a person charged with a criminal offence to have a fair hearing within a reasonable time by an independent and impartial tribunal established by law (sect. 10 (1));

(b) The right of an accused party to be informed as soon as is reasonably practicable, in a language that he understands, of the nature of the offence (sect. 10 (2) (b));

(c) The right to have, without payment, the assistance of an interpreter if he cannot understand the language of the trial of the offence (sect. 10 (2) (f)).

18. Furthermore, section 11 of the Constitution guarantees that no person shall be hindered in the enjoyment of his freedom of conscience. "Freedom of conscience" includes freedom of thought and of religion, freedom to change religion or belief including the freedom to manifest and propagate his religion or belief in worship, teaching, practice and observance.

19. Section 12 of the Constitution guarantees the freedom to hold opinions and to receive and impart ideas and information without interference (subject to being reasonably justifiable in a democratic society).

20. More importantly, under section 14 (1) of the Constitution it is provided that no religious denomination and no religious, social, ethnic or cultural association shall be prevented from establishing and maintaining schools at its own expense subject to subsection (2) which limitatively sets down conditions and circumstances where the religious group can be prevented from doing so, e.g. in the interests of public order.

21. Under section 17 of the Constitution, as already mentioned, an aggrieved citizen may apply to the Supreme Court for redress where any of the rights guaranteed in chapter II (annex 3) has been contravened. Section 17 (2) provides that the Supreme Court may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of, any of sections 3 to 16, to the protection of which the person concerned is entitled.

22. A citizen may also file a complaint through the police authorities under section 77 of the Criminal Code where a public officer commits any arbitrary act amounting to an abuse of authority prejudicial either to individual liberty or civic rights or to the Constitution. The section provides, on a finding of guilt, for imprisonment or a fine not exceeding 3,000 rupees.

23. In the framework of its continuing policy aimed at the elimination of all forms of discrimination, the Government in July 1991 enacted section 282 of the Criminal Code (annex 4) to make it an offence for any person who with intent to stir up contempt or hatred against any section or part of any section of the public distinguished by race, caste, place of origin, colour or creed:

(a) Publishes or distributes any writing which is threatening, abusive or insulting;

(b) Uses in any public place or at any public meeting or procession any gesture or word which is threatening, abusive or insulting; or

(c) Broadcasts any matter which is threatening, abusive or insulting.

24. It must be noted that the Constitution has vested the Director of Public Prosecutions with the power to institute, take over or discontinue criminal proceedings before a court of law. In the exercise of his powers the Director of Public Prosecutions is not subject to the direction or control of any other person or authority (sect. 72 of the Constitution).

25. Subject to the powers of the Director of Public Prosecutions, any citizen may have resort to a private prosecution under sections 4 and 5 of the Criminal Procedure Act.

26. In addition to the normal channels of complaint through the police authorities citizens of the Republic of Mauritius may have recourse to the office of the Ombudsman. Section 97 of the Constitution provides as follows:

> "[...] the Ombudsman may investigate any action taken by any officer or authority to which this section applies in the exercise of administrative functions of that officer or authority, in any case in which a member of the public claims or appears to the Ombudsman, to have sustained injustice in consequence of maladministration in connection with the action so taken and in which:

"(a) A complaint under this section is made;

"(b) He is invited to do so by any Minister or other member of the Assembly; or

"(c) He considers it desirable to do so of his own motion."

27. Mention must also be made of the important role played by the media. Freedom of expression is protected under section 12 of the Constitution and this is largely reflected in practice. The media itself are represented by a dozen of privately owned daily, weekly and monthly newspapers airing political viewpoints and freely expressing partial, controversial and partisan views. The press is reputed to be independent of any governmental influence and at times highly critical. Human rights organizations contribute towards the democratic process by making authorities accountable for any abuse or unfair treatment which may result from their dealings with the citizen.

28. The national radio and television station play a major role in promoting racial harmony and transmit programmes, in addition to English and French, in languages spoken by the various communities, namely, Hindu, Urdu, Mandarin, Tamil, Telegu, Marathi and Creole.

29. Abuse of the freedom of expression may lead to prosecution of the editor, the publisher and the author of a publication under the Criminal Code. Where the issue or publication of material would be likely to lead to unlawful violence or appears to have the object of promoting feelings of hostility between different classes of the community, a judge or a magistrate shall issue a prohibition order to prevent such issue or publication (annex 5).

30. Prior censorship of the press, radio and television by public authorities is prohibited, but under the Cinematograph Act, the Board of Censors may censor or approve films and videotapes which are to be shown in public.

31. There has not been any reported case of racial discrimination since the last report. However, last year the Government felt it necessary to ban the sale and circulation of a book entitled The Rape of Sita on the grounds that it could incite racial conflicts.

Article 3

32. As mentioned in the last report the Republic of Mauritius condemns racial segregation and apartheid and prohibits any practices of this type in its territory. As a member of the Non-aligned Movement, of the Commonwealth and of the Organization of African Unity and as a signatory to the African Charter of Human and People's Rights, Mauritius has forcefully condemned apartheid as practised in South Africa. With the advent of abolition of apartheid in the Republic of South Africa, Mauritius established consular and later diplomatic relations with the Republic of South Africa.

Article 4

33. In July 1991 the Government introduced the Public Gathering Act 1991. The Act (annex 5) gave powers to the Commissioner of Police to prohibit a public meeting or procession where he reasonably believes that meeting or procession is likely to cause public disorder (sect. 4). Any person aggrieved by the decision of the Commissioner may appeal to the Judge in Chambers in the Supreme Court to have the order issue quashed (sect. 4).

34. There is no reported instance whereby the decision of the Commissioner has been overruled by the Supreme Court.

35. As stated earlier, the Act also makes it an offence punishable by penal servitude for a term not exceeding 10 years against an offender who stirs up racial hatred (sect. 19).

36. There is no reported instance of an offence being committed under section 282 of the Criminal Code.

Article 5

Right to equal treatment before tribunals

37. This right is guaranteed by section 10 of the Constitution (annex 3).

38. It must also be noted that under the Mauritian legal system an accused person is presumed to be innocent and is not compelled to give evidence at the trial or to answer questions being asked by the police at the inquiry stage.

39. The doctrine of separation of powers guarantees the independence of the judiciary.

40. Hearings take place in open court except in the cases prescribed by law.

Security of person

41. It is provided under section 7 (1) of the Constitution that "No person shall be subjected to torture or inhuman or degrading punishment or other such treatment." It is a criminal offence to use or to attempt to use any violence or threat of violence on the person of any individual, as provided, inter alia, by section 215 et seq. of the Criminal Code which deal with all forms of offences against the individual.

42. By the same token, the corresponding sanctions provided by law with regard to each offence are stipulated. The State usually undertakes the criminal prosecution of such offences and the aggrieved parties are left with the added option of instituting civil action in damages to obtain appropriate compensation for the interference with their rights.

43. The Criminal Code also treats as crimes and prescribes penalties to the following acts by a public official:

(a) Any public functionary entrusted with the administrative or judicial police, or any person having the custody of a prisoner who refuses or neglects to pay due regard to any demand tending to prove illegal or arbitrary any detention, whether in any house destined for the custody of persons under detention or elsewhere, and who does not prove having reported such detention to his superior officer, shall be subject to the punishment specified in section 77, i.e. imprisonment or a fine not exceeding 3,000 rupees;

(b) Any jailer or keeper of a jail, prison or house of correction, who (a) receives a prisoner without warrant or sentence or who refuses upon demand to deliver to the prisoner a copy of the order under which the prisoner was delivered over to him; (b) detains or refuses to produce the prisoner to any judicial or police officer entitled to demand the appearance of the prisoner, without proving a prohibition from the Director of Public Prosecutions; (c) refuses to exhibit his register to any judicial or police officer, shall be guilty of arbitrary detention, and be liable to imprisonment or to a fine not exceeding 2,000 rupees;

(c) Any functionary of an administrative or judicial body, or any judicial or police officer or any civil or military authority acting in such capacity, who enters the domicile of another person against the will of that other person, except in cases provided by law, and without complying with the prescribed formalities, shall be punished by a fine not exceeding 1,000 rupees, and by imprisonment for a term not exceeding six months.

44. The police, for their part, have a duty to act in accordance with the Judges' Rules and Administrative Directions to the Police, which provide a useful guide to the police for the interviewing of suspects and in recording their statements.

Political rights

45. This right is guaranteed under chapter V of the Constitution (annex 3).

46. The right of access on terms of equality to public office and the management of public affairs is guaranteed without distinction of race, colour, creed, sex or political opinion.

47. The recruitment of candidates to work in the public service, including the police force, is effected by independent democratically constituted commissions.

Right to freedom of movement within the country

48. Subject to certain restrictions under section 15 (3) of the Constitution, no person is deprived of his freedom to move freely throughout Mauritius.

Right of nationality

49. In view of various difficulties encountered by women non-citizens married to Mauritian citizens and persons who hold dual nationality, the Mauritius Citizenship Act was amended in August 1995 (annex 7).

50. The Mauritius Citizenship (Amendment) Act 1995 provides that a non-citizen married to a citizen of Mauritius may be registered as a citizen of Mauritius if he satisfies the Minister that he has been living with his spouse under the same conjugal roof for a period of not less than four years for a period immediately preceding his application (sect. 4 (2)).

51. Similarly, section 15 of the Mauritius Citizenship Act was repealed to enable those persons who are citizens of Mauritius and of some other country to become a citizen of Mauritius without the need to renounce the nationality or citizenship of the other country (sect. 15).

52. Where the person is not ordinarily resident in Mauritius, he may make an application for registration to the Minister who may on his discretion grant the application.

Right to marriage

53. The right to marry and choose a spouse is based on the right which every individual enjoys by virtue of the enjoyment of his fundamental rights and freedoms under the Constitution as long as he does not violate the rights or freedoms of others, public order or public morals. Marriages are contracted, dissolved or annulled according to the provisions of the Civil Status Act and the Civil Code which substantially follows the provisions of the French Civil Code.

54. The authorities have the duty to respect and defend the homes, family life and privacy of Mauritian citizens (sects. 4 and 9 of the Constitution).

Right to property

55. Under the provisions of the new Dangerous Drugs Act 1995, an accused person shall not dispose of his assets or make any withdrawals from any account or deposit at any bank or financial institution pending the trial. On a finding of guilt, subject to the determination of an appeal, the Director of Public Prosecutions shall refer the matter for inquiry to the Commissioner.

56. The Director of Public Prosecutions may, upon receipt of a report, apply to the Supreme Court for an order for the forfeiture of the possessions of the convicted person or any member of his family.

Right to inherit

57. The right to inherit is governed by the Civil Code which lays down the procedures for inheritance according to law and by testament, the rules of succession and the conditions for acceptance and renunciation of succession (art. 718 et seq. of the Civil Code). Under article 727 of the Civil Code, a convicted person who has killed or attempted to kill the deceased, an heir of

full age having knowledge of the murder of the deceased and failing to report it to judicial authorities and a person who has levelled a false and malicious accusation against the deceased are barred from succession.

Right to freedom of thought, conscience and religion

58. The Constitution guarantees freedom of conscience, on terms of equality, without distinction as to race, nationality or ethnic origin (sect. 11). The right to freedom of thought and opinion, and freedom of religion can only be restricted in specific circumstances, e.g. in the interests of defence, public order (sect. 11 (5)). Section 11 also provides that no person may be forced to adopt an opinion or a religious belief contrary to his convictions. Parents and guardians have the right to ensure, in accordance with their own convictions, the religious instruction which a child attending a place of education shall receive.

Right to freedom of opinion and expression

59. In the case of R. v. Boodhoo & Anor (1990 MR 191), the appellants challenged the constitutionality of section 299 of the Criminal Code in the light of section 12 of the Constitution. In that case, the two accused were charged respectively with diffusing and publishing false news which was of a nature to disturb the public peace. The issue was whether the requirements placed on the accused by section 299 (1) amounted to a derogation from the right of a citizen to freedom of expression which was not reasonably justifiable in a democratic society. It was conceded by Counsel for the applicant that:

(a) The objective of any limitation on the guaranteed constitutional right must be of sufficient importance; and

(b) The means chosen must be reasonable and demonstrably just.

60. The Court held that section 299 (1) deals with the diffusion or publication of news which is false or which, though true, in substance has been altered or falsely attributed to another person, where the publication or diffusion is of such a nature as to disturb public order or peace. It is an area where the objective of the limitation on the guaranteed constitutional right of freedom of expression is of sufficient importance and the means chosen are reasonable and demonstrably justified.

Right to work and right to form and join trade unions

61. The right to form and become a member of a trade union is protected both in the Constitution (sect. 13) and in the Industrial Relations Act.

62. The expanding economy coupled with the demographic trends have resulted in a tight labour market situation. In the building sector and the Export Processing Zone the shortage of labour has had to be met by recruiting foreign workers. The labour constraints are, however, seen as a temporary phenomenon as the country launches a more technology-oriented industrialization.

63. The table below indicates the number of registered unemployed persons between 1982-1993:

Unemployment	Men	Women	Young persons	Disabled person
December 1982	49 875	20 938	4 316	N.A.
December 1988	15 551	7 403	480	508
December 1993	2 612	4 495	144	295

N.B.: The total unemployment for 1993 represented less than 2 per cent of the labour force.

64. Industrial relations have been marked by continued dialogue and consultation among trade unions, employers' organizations and government agencies in a true spirit of tripartism. The table below indicates the number of work stoppages over the period 1989-1991:

	Work stoppages	Workers involved	Man-days lost
1989	15	4 472	14 720
1990	8	1 700	3 136
1991	6	426	122

65. Wage-earners are entitled to the social protection of labour under the following Acts: Labour Act; Industrial Relations Act; Occupational Safety, Health and Welfare Act 1988; Export Processing Zones Act; Workmen's Compensation Act; Industrial Courts Act.

66. Industrial disputes regarding wages and conditions of work are referred to the Permanent Arbitration Tribunal (PAT) or the Industrial Court. There also exists institutions such as the Industrial Relations Commission to promote good industrial relations and the National Remuneration Board (NRB) to review wages in certain specific sectors.

67. The Government intends in the near future to review the provisions of the Industrial Relations Act and to provide for a less cumbersome procedure for the settling of industrial disputes.

68. The Workers' Education Unit has successfully completed the first phase of a National Workers' Education Programme during the period 1988-1991. Under this phase, more than 1,000 trade union leaders were trained through workshops.

69. The Export Processing Zone Labour Welfare Fund established by law has implemented a balanced and diversified welfare package. The Fund has placed special focus on:

(a) Setting up day-care centres in regions of localized EPZ labour;

(b) Providing interest-free loans for the purchase of essential household items so as to improve the quality of living;

(c) Granting scholarships to children of workers;

(d) Providing health support services through the setting up of a health centre at the Industrial Estate;

(e) Creating new avenues for leisure management through regular activities in the field of sports and recreations.

70. The passing of the Occupational Safety, Health and Welfare Act in November 1988 was an important landmark in the promotion of a safe and healthy work environment at workplaces. From the figures available industrial accidents declined from 13,777 in 1989 to 10,234 in 1991.

Right to housing

71. The latest housing census shows that in 1990 there were 223,821 housing units in the State of Mauritius out of which 216,011 were in the island of Mauritius.

72. The urban areas account for 43 per cent of the housing stock. But when the peri-urban areas are taken into account, the total percentage of housing units in the urban and peri-urban zones goes up to 51.6 per cent of the total housing.

73. The number of homeless persons are estimated to be around 150. The Ministry of Social Security has implemented a project jointly with the Abbé Pierre Foundation to provide shelters to the homeless.

74. In 1989, the Government delivered Housing Development Certificates with a view to providing incentive to building companies and housing promoters wishing to construct flats for lower and middle income groups. Companies holding Housing Development Certificates were entitled to reduce corporate tax, exemption from income tax for eight years, exemption from import duty and import levy on construction equipment and building materials, part remission of registration duty and land conversion tax. Furthermore, those companies are eligible to obtain loans from the Development Bank of Mauritius and the Mauritius Housing Corporation.

75. In 1992, a private company, the National Housing Development Company Ltd. (NHDC), was set up to act as the executive arm of Government in the housing sector. It was provided with Rs 200 million as seed capital to enable it to embark on a series of large-scale projects for low and middle income groups, with the Government bearing the cost of land and basic on-site and off-site infrastructure (water, sewerage, roads and electricity).

76. The NHDC has to date built 2,030 housing units in three-storey blocks and will complete during the course of the year (1994) another 1,360 units. The housing units are meant primarily for the income groups drawing between Rs 3,000-Rs 4,000 and Rs 4,000-Rs 6,000 per month.

77. It should be observed here that to further facilitate access to NHDC housing, the Government decided in February 1994 to lower down-payments as follows:

Salary	Down payment
Less than Rs 4,000	Rs 5,000
Rs 4,000 to Rs 6,000 price	5% of housing unit sale
More than Rs 6,000	10% of housing unit sale

Government has further changed loan repayment facilities from the monthly equated instalments to the progressive repayment system for beneficiaries drawing less than Rs 6,000 monthly.

78. Apart from the National Housing Development Programme assigned to the NHDC, Government has allocated during the period 1984-1993, 1,340 building site leases to enable very low-income people to build their own individual houses. It should also be pointed out that by December 1991, Government had approved 1,298 leases to squatters, thereby regularizing their hitherto illegal occupation of State lands.

Right to health and social security

79. The medical care provided by the State health services is free of charge for all citizens of Mauritius without any distinction. In addition to State hospitals and private clinics, the large majority of the population have access to trained personnel for the treatment of common diseases and injuries with regular supply of all essential drugs. Health centres are easily accessible and within walking distance.

80. Under section 94 of the Constitution, the National Pensions Act and the Statutory Bodies Pensions Act, all wage earners in the public service have the right to a pension. Those persons employed in the private sector have their own pension scheme.

81. The Training and Employment of Disabled Persons Act is about to be enacted to prevent, inter alia, discrimination against disabled persons resulting from or arising out of their disability. Under the proposed Act, it would be an offence for an employer to discriminate against any disabled person in relation to the advertisement of and recruitment for employment, the determination or allocation of wages, salaries, pensions and any other matter related to employment.

Right to education and training

82. The right to education and training is guaranteed through compulsory general education under the Constitution and the Education Act for all the country's children through secondary education and vocational training and through university and post-university training.

83. State education up to university level is free in the Republic of Mauritius.

84. Under section 37 of the Education Act, it is an offence for a parent who without reasonable cause refuses or neglects to cause his child to attend school regularly or to receive suitable and efficient instruction and comments.

85. The Industrial and Vocational Training Board, a statutory body, was set up in April 1988, inter alia to promote, assist in and regulate the training or apprenticeship of persons who are or will be employed in commercial, technical and vocational fields.

86. There are 281 primary schools for a school population of 125,000 aged five to 12. Admission to State primary schools is based on a catchment area system whilst admission to the secondary schools is based on performance at the Certificate of Primary Education (CPE).

Right to participate in cultural activities

87. The exercise of this right is guaranteed under chapter II of the Constitution.

88. Mauritian society has the advantage of being pluri-cultural and pluri-lingual, creating a unique opportunity to produce a symbiosis of cultures.

89. The Government is fully committed to giving new dimensions to all cultural forms and expressions to ensure unity in diversity. In that context, the Government has extended support in the form of land and other facilities to enable the establishment of the following institutions: Indira Gandhi Cultural Centre (to promote Indian culture); Chinese Cultural Centre; Islamic Cultural Centre; African Cultural Centre.

90. A National Drama Festival has been held every year for the last 50 years. The festival is presently held in 10 languages, namely English, French, Hindi, Bhojpuri, Tamil, Telegu, Marathi, Mandarin, Urdu and Creole.

91. The Mauritius Film Development Corporation set up in 1986 promotes, inter alia, the holding of film festivals to cater for the cultural and linguistic needs of the people of Mauritius.

Article 6

92. As already mentioned, the Constitution, the Criminal Code and the Code of Civil Procedure, as well as the organization and functioning of the courts, guarantee equal and effective protection for every person against the violation of his individual rights and fundamental freedoms.

93. Any person whose rights have been infringed by an act of racial discrimination may seek redress as follows:

(a) Under section 17 of the Constitution, inviting the Supreme Court to make such orders, issue such writs and give such orders as it may consider appropriate;

(b) By lodging a complaint with the police authorities where the act constitutes an offence under the Criminal Code;

(c) By filing a complaint with the Ombudsman;

(d) By way of judicial review to quash the decision of a public body;

(e) By entering an action before the Industrial Court to seek compensation at a punitive rate;

(f) In addition, an aggrieved person may seek damages before the courts by way of redress.

94. Any person who is dissatisfied with a judgement on the merits may lodge an appeal before a higher court. The right of interested parties to avail themselves of the legal means of contesting judicial decision is guaranteed by the Constitution (sects 80 and 81). It is to be noted that an appeal lies from the decisions of the Court of Appeal to the Judicial Committee of the Privy Council in matters where the question involved in the appeal is one of great general or public importance.

Right of access to any place or service intended for use by the general public

95. All Mauritian citizens and all aliens residing in or visiting Mauritius enjoy all services intended for the public on a footing of equality.

Article 7

96. As already mentioned, under section 11 of the Constitution no person is compelled to receive religious instruction against his will when he attends a place of education, the more so if that instruction relates to a religion that he does not profess. Further, the Constitution provides for the freedom to disseminate religious instruction in the course of any education that is provided. The above tallies with the provision of section 14 (1) of the Constitution which stipulates that no religious denomination and no religious, social, ethnic or cultural association or group shall be prevented from establishing and maintaining schools at its own expense.

97. Section 14 has been made the subject of judicial pronouncement in the case of Roman Catholic Diocese of Port Louis v. The Minister of Education (1991 MR 176). The Supreme Court ruled that when it comes to denominational schools, there is a need to protect their constitutional right to the protection of the law, and to freedom of expression and conscience, through their particular vision of education. The State even assists financially these denominational schools in their endeavours. But that does not make employees in these schools public officers merely because the State assists them financially. (see Government Teachers' Union v. Roman Catholic Education Authority (1987 MR 88).

98. Besides the above, which are constitutionally entrenched provisions to combat prejudices which lead to racial discrimination in the area of education and teaching, since August 1991 a Master Plan on Education for the Year 2000 has been elaborated. In the new Plan, provision is made to teach subjects to further foster understanding, tolerance and friendship among nations and racial or ethnic groups. Amongst these subjects are education in human values and education for a better life. Provision is also made for pastoral care and education welfare work. It has been argued that when proposals in the Plan are implemented, there has nevertheless to be a periodical review in the light of changing circumstances. The year 1995 having been proclaimed United Nations Year of Tolerance, a nation-wide debate has been launched about the purport of tolerance in such a pluralist society as Mauritius.

Culture

99. Section 13 of the Constitution provides for the protection of the freedom of assembly and association. Subject to section 14, cultural associations may be formed with a view to promoting their particular interests unless what is done is not reasonably justifiable in a democratic State. Not only does the State protect the above right but it also encourages and even sponsors activities of cultural associations. In this respect the Government in 1991 set up a ministerial portfolio to look after arts and culture in Mauritius. In all its activities the Ministry encourages participation from Mauritians irrespective of their ethnic or racial origin. Participants come from every walk of life. Every year in May a Music Day and a National Arts Day are organized to promote understanding among Mauritians. Debating competitions and play-writing competitions are organized by the Ministry for schools, for clubs and for the public in general in the context of Human Rights Day and this year more specifically in the context of the fiftieth anniversary of the United Nations.

100. In furtherance of the protection of fundamental human rights, the promotion of intra-national and intra-cultural understanding, tolerance and friendship, various non-governmental organizations get financial and logistical support from the Ministry for Arts and Culture.

101. In so far as electronic mass media are concerned, under the Mauritius Broadcasting Corporation Act 1982, section (4) (f) provides that one of the objects of the Corporation is to strike a fair balance in the allocation of broadcasting hours among various educational, cultural, political and religious standpoints. Further, the Corporation has as an objective to provide independent and impartial broadcasting services of information, education, culture and entertainment in Creole, Bhojpuri, French, Hindustani, English and other languages spoken or taught in Mauritius. The aim of the Corporation is to cater for the aspirations, needs and tastes of the Mauritian population in matters of information, education, culture and entertainment.

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on the Elimination
of all Forms of
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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 9 OF THE CONVENTION

Twelfth periodic reports of States parties due in 1995

Addendum

ALGERIA*

[3 March 1996]

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* This report contains in a single document the eleventh and twelfth periodic reports of Algeria due on 15 March 1993 and 1995 respectively.

For the ninth and tenth periodic reports and the summary records of the Committee's meetings at which the reports were considered, see:

CERD/C/209/Add.4 (CERD/C/SR.962, 963 and 983).

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Introduction

1. The Government of the People's Democratic Republic of Algeria, confirming its commitment to the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, a commitment emphasized by recognition of the Committee's competence under article 14, hereby submits its eleventh and twelfth consolidated reports.

2. This report essentially outlines new developments since the submission of Algeria's previous reports (1992) and sheds new light on the interpretation of certain socio-political phenomena in the context of the current process of democratization. In this connection, and for the sake of conciseness, the points already covered, in exhaustive fashion, in the preceding periodic reports have not been reiterated.

I. GENERAL

A. Action to combat racial discrimination and general legal context

3. Algeria has acceded to the principal international conventions relating to human rights, notably the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and its Optional Protocol No. 1, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It has been a party to the Convention on the Rights of the Child since 1993 and will shortly deposit the instruments of ratification of the Convention on the Elimination of All Forms of Discrimination against Women. The principal provisions of the Convention on the Elimination of All Forms of Racial Discrimination have been incorporated in the Algerian Constitution of 23 February 1989.

B. Status of the Convention with respect to domestic law

4. Article 123 of the Constitution stipulates that "The treaties ratified by the President of the Republic under the conditions specified by the Constitution are superior to the law". The Convention has therefore formed an integral part of Algerian legislation since 14 February 1972, the date of its ratification, and its provisions may be invoked by individuals and bodies corporate before the courts. This possibility has been confirmed by the Constitutional Council.

5. Pursuant to this provision, therefore, the Constitutional Council, having been seized by the Head of State, on two occasions - in 1989 and 1995, criticized the provisions of an Elections Bill submitted by Parliament and introducing a clause forbidding candidates to stand for the office of President of the Republic if they or their spouses are not of "original" Algerian nationality.

C. Demographic composition of the Algerian population

6. For thousands of years the territory constituting modern Algeria has witnessed the mixing of populations of various origins. The traces left by

the first inhabitants of the country (the rock paintings at Tassili date back to the second millennium before Christ) show that they already belonged to different types, including in terms of skin colour.

7. From the seventh century onwards Christian, Jewish and Muslim populations began to cohabit in Algeria, the Muslim element predominating in demographic terms and in terms of monopolization of political power. The latter aspect is important: unquestionably, from the historical standpoint, the coexistence of three religions has been made possible by Islam, which recognizes the validity of prior religious messages and protects its adherents. The Muslim religion also stresses the unique character of the origin of the human species, condemning racial, tribal, ethnic or linguistic differentiation and admitting competition between peoples only if it is in the context of the promotion of merit deriving from individual works.

8. The contribution of Islamic culture has been decisive in the unification of these populations and in the rejection of racial discrimination.

9. On the other hand, colonization set up a discriminatory system based on the granting of French citizenship to the indigenous Jewish community (Crémieux decree of 24 October 1870) and then the indigenous Christian community (Act of 26 June 1888) and on the classification of the population by pseudo-ethic criteria: Arabs, Moors, Kabyles, Kouroughlis, Mozabites, Chaouis and Touaregs (Code of Indigenous Status, 1881). This segregation, which was based on a total misconception of the process of settlement of Algeria, was abolished by the Act of 31 December 1962, together with all legal provisions of the colonial period which jeopardized national unity. Shortly before independence, between May and July 1962, the Christian and Jewish communities, influenced by the propaganda of proponents of French Algeria who rejected the principle of democratic coexistence in an independent State, left the country en masse. Once freedom had been recovered, and out of respect for the principle of non-discrimination, for which several generations of Algerians fought during the colonial period, the public authorities now refuse to conduct censuses on the basis of linguistic, religious or racial criteria.

10. Today, the Constitution stipulates that "Algeria is a democratic and people's republic. It is one and indivisible." Articles 2 and 3 of the Constitution stipulate that Islam is the religion of the State and that Arabic is the national and official language. Other provisions stipulate that, apart from its Arab and Muslim culture, Algeria is based on an Amazighe, African and Mediterranean substratum.

11. Since 1995, and with the establishment of the Office of the High Commissioner on Amazighe Status, the Amazighe language has been taught in schools and universities. The use of this language as a means of communication has been growing steadily, including within State institutions.

12. Freedom of conscience, religion and worship is recognized by various provisions of the Constitution. The Christian and Jewish communities enjoy freedom of religious practice. The protection and maintenance of their places of worship are ensured by the State on the same basis as for Muslim places of worship, and their employees are remunerated by the State. A Jewish consistory has its headquarters in Algiers and two synagogues are open, one in

Algiers and the other in Blida. The archdiocese of Algiers, which covers several dioceses, is responsible for churches in Algiers, Oran, Constantine and Laghouat. Article 160/3 of the Penal Code establishes penalties for any person who degrades, destroys or desecrates "places reserved for worship" of any kind, and article 160/4 establishes penalties for persons who mutilate, destroy or degrade "monuments, statues, pictures or other articles" that may be used for cultural purposes. Similarly, article 77 of the Information Act (3 April 1990) establishes penalties for "any person who, through writing, sound, image, drawing or any other direct or indirect means, insults Islam and the other celestial religions".

II. INFORMATION RELATING TO CERTAIN ARTICLES

13. Since Algeria attained its independence, censuses have no longer been carried out on the basis of ethnic, religious or linguistic criteria. The Algerian personality is now recognized in the wealth and diversity of its founding traditions, its particular features and its origins. The legislature constantly ensures that laws and regulations are consistent with the principle of non-discrimination.

14. At the same time, the Algerian Government is implementing an active and voluntarist policy of support for measures aimed at combating, internationally, all forms of racial or religious discrimination.

15. Practices constituting racial discrimination are unknown in Algeria. This aspect is linked to the heterogeneous character of the population. In this connection, it may be noted that the only anti-Semitic persecution recorded in Algerian history dates back to 1898 and was perpetrated by European settlers. In the past few years, however, literature imported from abroad by Islamic extremists has carried anti-Semitic ideas and is the subject of very close scrutiny pursuant to the Information Act.

16. In the early 1980s a rumour went around among African students enrolled in Algerian universities about the existence of an "anti-black group" which was said to carry out attacks on blacks. An inquiry ordered by the security services led to the arrest of one Algerian student who proved to be the sole author of the racist letters which sparked off the rumour. The student was expelled from university and sentenced to imprisonment.

A. Information relating to article 2

17. Articles 26, 28 and 48 of the Constitution forbid any discrimination on grounds of race. The Civil Code, the Penal Code, the Code of Criminal Procedure, the Electoral Code and the various special codes (commerce, information, health, Customs, etc.) are inspired by the Napoleonic Code and based on the principle of non-discrimination and equality between citizens.

18. The Constitutional Council sees to it that laws are in conformity with the Constitution, censures any violation of the principle of equality between citizens, and ensures that the legislative provisions and regulations applied to foreign nationals are compatible with the Constitution and with the international conventions ratified by Algeria.

B. New legislative provisions or regulations

19. Since Algeria's last periodic report was prepared, various laws and regulations have been promulgated, including the Commercial Code, the Investment Code, the Customs Code, the Code of Medical Ethics and the Electoral Code. In addition, the Penal Code and the Code of Criminal Procedure have been amended.

20. No provision of these instruments violates the spirit or letter of the Convention.

C. Implementation of article 5

21. By its decision No. 3 of 10 March 1995, the Committee on the Elimination of Racial Discrimination, "Alarmed by the continuing violence in Algeria", requested the Government of Algeria "to expedite its eleventh and twelfth periodic reports, ... with particular reference to article 5 (b) of the Convention".

22. This request, although legitimate, calls for the following clarification:

(a) The reference to article 5 (b) constitutes an over-hasty judgement concerning a violation, either by the State or by individuals, of the provisions of that article with regard to discrimination and, "without distinction as to race, colour, or national or ethnic origin, ... equality before the law, notably in the enjoyment of ... the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution". No such case of discrimination can be established; even the terrorist groups that commit crimes against Algerians and foreigners resident in Algeria do not perpetrate assassinations on the basis of the above-mentioned criteria;

(b) Throughout the history of Algeria there has never been any manifestation of violence against foreigners or violence based specifically on a racial criterion;

(c) The assassinations in Algeria are the work of terrorist groups wishing to cut Algeria off from the rest of the world and advocating the forcible change of Algeria's modern political and social system and its replacement by a totalitarian system denying mankind's achievements in the area of human rights.

23. This having been said, the number of foreign nationals who have fallen victim to acts of terrorism in Algeria constitutes only a very small part of the total number of victims of the armed groups, who belong to all social or professional categories.

24. Various measures have been taken by the Government to end and punish these acts. In order to deal with terrorist crime and its consequences, the Penal Code and the Code of Criminal Procedure have been amended and several decrees issued to compensate the victims.

25. The penalties laid down by law for the criminals are identical irrespective of whether the victim is an Algerian or a foreigner; article 64 of the Constitution provides for equality in protection by the law, and the Penal Code makes no distinction between residents of different nationalities.

26. The perpetrators of criminal acts are systematically sought and prosecuted before the courts. By way of illustration, the following table gives an indication, as of 1 June 1995, of the number of terrorist cases before the courts in which foreigners were victims;

Cases dealt with	Judgements handed down	Judgements pending	Investigations under way
38 Concerning 95 persons	6 Concerning 33 persons	12 Concerning 24 persons	20

27. A compensation fund was set up in December 1993 and a decree of 10 April 1994 established compensation procedures and conditions. Compensation, paid for from the State budget, is payable at the request of rightful claimants in the form of a one-time lump sum and may be up to 120 times the guaranteed minimum wage. Some 15 compensation claims have already been settled.

III. CONCLUSION

28. The economic and security constraints with which Algeria has been confronted since the previous report was prepared have not been accompanied by any restriction, either by law or regulation, of the freedoms of labour, movement and residence of foreigners. On the contrary, thanks to the ongoing process of liberalization of the Algerian economy and new provisions relating to investment and commerce, these freedoms have been expanded, foreign investors now being assimilated to Algerian investors.

29. Nowhere in the world does social activity prevent the emergence of activities that may be classified as discriminatory. It is none the less clear that the cultural characteristics of societies and their history may contribute to the more or less speedy disappearance of such activities. The process of democratization under way, together with the effects of the policy of compulsory schooling implemented since independence, will certainly result in individuals becoming more aware of their rights. This could lead to the revelation of realities today unknown, but also to a gradual improvement in the conditions of implementation of the Convention.

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Twelfth periodic reports of States parties due in 1995

Addendum

Sweden*

[25 October 1996]

* This document contains the twelfth periodic report due on 5 January 1995. For the eleventh periodic report of Sweden and the summary record of the meetings at which the Committee considered that report, see documents CERD/C/239/Add.1 and CERD/C/SR.1018-1019.

The information submitted by Sweden in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic document HRI/CORE/1/Add.4.

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I. GENERAL COMMENTS

1. In this report, a detailed description will be provided of measures taken by the Swedish Government with respect to the Convention. The major source of legal protection against ethnic discrimination is the Swedish Constitution which is presented under Part II, article 2. The Swedish penal legislation contains provisions which prohibit ethnic discrimination, and rules protecting the individual against ethnic discrimination are to be found in the Act against Ethnic Discrimination. These rules are also described under article 2. Under each article a description will be provided of the relevant legal framework as well as of other measures undertaken to fulfil the obligations under the Convention.

2. Sweden has in just a few decades developed from a relatively ethnically homogenous society to a multicultural society. In almost all municipal decisions taken in Sweden, the immigrant aspect has to be taken into account. This is one of the most important changes in everyday life in Sweden since the industrial revolution.

3. The total population in Sweden as of 31 December 1995 was 8.8 million, 936,000 of whom were born abroad (a number of them have acquired Swedish citizenship). Some of the larger groups are:

205,000 from Finland

117,000 from the territory of the former Yugoslavia, of whom 46,000 are from Bosnia and Herzegovina

49,000 from the Islamic Republic of Iran

36,000 from Germany

30,000 from Turkey

27,000 from Chile

22,000 from Lebanon

The first and second generation of immigrants together total 1.6 million people (18 per cent of the total population).

4. Since 1991, some 90,000 people have been granted a residence permit in Sweden following the situation in the former Yugoslavia. Some 80,000 of those have been granted a permanent residence permit (21,000 from Serbia/Montenegro, 57,000 from Bosnia and Herzegovina, 2,000 from Croatia).

5. There is no official declaration in Sweden of a specific group as being a national minority. However, there are three groups which are considered to fulfil the criteria of being minority groups. These are the "Tornedal Finns", the Romas and the indigenous Sami people. The exact size of these groups cannot be given since there are no statistics on ethnic background. Except for the Roma, the social situation of these minorities does not differ significantly from that of the majority population.

6. The largest number of members of the "Tornedal Finns" are to be found in the Tornio valley in the northern part of Sweden. They speak a variety of Finnish. The minority was created as a result of border changes in the nineteenth century. The total number of "Tornedal Finns" in Sweden is estimated at 50,000 persons and most of them are Swedish citizens.

7. The number of Romas in Sweden is estimated to be 20,000 including 5,000 travellers. Roma in smaller groups have settled in Sweden since the sixteenth century. Roma of Finnish origin number approximately 3,000. Around 10,000 Romas immigrated after 1960, mainly from the former Yugoslavia, Poland, Romania, the former Czechoslovakia and Hungary. Most of the Romas in Sweden are Swedish citizens with full and equal rights and obligations. They live throughout the country, mostly in cities, and are permanent residents. The social position of Romas is in general less favourable than that of the rest of the population and many among them depend on social welfare.

8. In May 1995, the Government decided to appoint a committee charged with the task of analysing whether, and if so in what manner, Sweden should ratify the Council of Europe Charter for Regional and Minority Languages and the Framework Convention on the Protection of National Minorities. The committee will finish its work by the end of March 1997. The committee consists of parliamentarians and representatives of different groups, such as the Finnish speakers, Roma, the Sami people and the "Tornedal Finns".

9. Racism and ethnic discrimination are combated in several different ways. Broadly, the measures can be divided into judicial measures, measures within the framework of the integration policies aiming at safeguarding equal opportunities for immigrants and ethnic minorities, and information and fostering positive attitudes.

10. The relevant legal provisions are constantly monitored by the Government to check whether they are adequate or need adjustments but also to safeguard that they are implemented with the necessary priority within the judicial system.

11. Racism, xenophobia and ethnic discrimination cannot be effectively counteracted unless immigrants, refugees and ethnic minorities are granted equality in relation to others through effective integration policies. Each government agency is responsible within its own sphere of activities for promoting such equality. The concept of integration in Sweden is understood as being synonymous with a process aiming at providing equal opportunities, and not with assimilation.

12. Information and fostering of positive attitudes play important roles in the fight against racism and xenophobia. In order to be effective in the long run, this work has to include, inter alia, individuals, non-governmental organizations, churches, the social partners and government agencies all over Sweden, in most areas of society and on all levels. The Government, different agencies and local municipalities contribute to such work, e.g. by funding different activities. In addition, the Ombudsman against Ethnic Discrimination and the Swedish Immigration Board are responsible for following up, substantiating and conveying further the increasing knowledge, understanding and experience that exist in this field. The Immigration Board is also actively engaged in developing methods for promoting good ethnic relations.

13. In late 1994, the previously established Parliamentary Commission (on immigrant, refugee and immigrant integration policies) was replaced by two new separate commissions: one with the task to review Swedish immigration and refugee policies and the other with the task to review policies with respect to the long-term integration of immigrants and refugees in Sweden. Based on the report of the commission assigned to review immigration and refugee policies, a parliamentary bill will be put forward during the autumn of 1996.

14. The commission assigned to review the Swedish integration policies concerning immigrants and refugees put forward its final report in April 1996. The commission concluded that refugees and immigrants were worse off than Swedes in most areas of society, and that the gap was widening. The situation in the labour market gave particular reason for concern. However, no simple answer could be given as to the reason for this development. Integration policies could probably be made more effective, but policies in general also had to focus more on equal opportunities. Clearly, the recession that has had serious consequences for Sweden has led to severe setbacks also for refugees and immigrants (see below under art. 5 (e) (i) for further information).

15. The commission proposed that future integration policies should encompass only recently arrived refugees and immigrants and be limited to their first years in Sweden and aim at equality between refugees and immigrants and others. If further measures are needed thereafter, they should be made within the framework of general policies aiming at equality while taking into consideration the ethnic, linguistic and social pluralism in society.

16. Self-provision and participation for refugees and immigrants should, according to the commission, be the overall objectives. Individual introductory plans should be set up in the municipalities for all refugees and immigrants in need of assistance in their integration.

17. The Government intends to put forward a bill to Parliament on new integration policies during the first part of 1997. A token of the great importance the Government attaches to questions relating to these issues is a declaration made by the Government when it took office in March. The declaration states that unemployment, segregation and racism are the most worrying problems in today's society. Without equal rights for people with different backgrounds, our society risks breaking down from inside. Therefore, the whole of Swedish society must be mobilized to promote better integration. It is of particular importance that unemployment among immigrants is given priority.

II. INFORMATION IN RELATION TO ARTICLES 2 TO 7

Article 2

18. An initial account is given here of the Swedish legislation designed to abolish racial discrimination in the sense covered by article 2 of the Convention.

19. Chapter 1, section 2, of the Instrument of Government states that the public administration shall endeavour to make the principles of democracy the

norm in all areas of society and promote opportunities for ethnic, linguistic and religious minorities to preserve and develop their own culture and community life.

20. Chapter 1, section 9, of the Instrument of Government requires the courts, administrative authorities and all those who work in public administration to respect the equality of everyone before the law, and act with objectivity and impartiality.

21. Chapter 2, section 15, of the Instrument of Government, which concerns fundamental liberties and rights, provides that no statute or regulation may cause unfair treatment of a citizen on the grounds of his belonging to a minority, on account of his race, skin colour or ethnic origin.

22. There are several respects in which alien residents in Sweden have parity of status with Swedish citizens. Chapter 2, section 22, of the Instrument of Government (former sect. 20; c.f. para. 15 of the tenth report) reads as follows:

> "A foreigner within the Realm shall be equated with a Swedish citizen in respect to
>
> > "1. protection against coercion to participate in any meeting for the formation of opinion or in any demonstration or other expression of opinion, or to belong to any religious congregation or other association (Section 2, second sentence);
> >
> > "2. protection of personal integrity in connection with electronic data processing (Section 3, second paragraph);
> >
> > "3. protection against capital punishment, corporal punishment and torture and against medical intervention aimed at extorting or preventing statements;
> >
> > "4. the right to have any deprivation of liberty on account of a criminal offence or on grounds of suspicion of having committed such an offence tested before a court of law (Section 9, first and third paragraphs);
> >
> > "5. protection against retroactive penal sanctions and other retroactive legal effects of criminal acts and against retroactive taxes, charges or fees (Section 10);
> >
> > "6. protection against the establishment of a court to try a particular case (Section 11, first paragraph);
> >
> > "7. protection against discrimination on grounds of race, skin colour, ethnic origin, or sex (Sections 15 and 16);
> >
> > "8. the right to take strike or lock-out action (Section 17);

"9. protection against expropriation or other such dispositions and against restrictions on the use of land or buildings (Section 18);

"the right to an education (Section 21).

"Unless otherwise provided by special rules of law, a foreigner within the Realm shall be equated with a Swedish citizen also in respect of

"1. freedom of expression, freedom of information, freedom of assembly, freedom to demonstrate, freedom of association, and freedom of worship (Section 1);

"2. protection against all coercion to divulge an opinion (Section 2, first sentence);

"3. protection against physical violations also in cases other than those referred to in Sections 4 and 5, against physical search, house searches or similar intrusions, and against violations of confidential communications (Section 6);

"4. protection against deprivation of liberty (Section 8, first sentence);

"5. the right to have any deprivation of liberty for reasons other than a criminal offence or suspicion of having committed such an offence tested before a court (Section 9, second and third paragraphs);

"6. public court proceedings (Section 11, second paragraph);

"7. protection against encroachment on grounds of opinion (Section 12, second paragraph, third sentence);

"8. the right of authors, artists, and photographers to their works (Section 19);

"9. the right of trading or practising a profession (Section 20).

"With respect to the special provisions referred to in the second paragraph of the present Section, the provisions of Section 12, third paragraph; fourth paragraph, first sentence; and fifth paragraph shall apply."

23. These provisions may be invoked to override laws and administrative practices which conflict with the principles laid down above. Like other provisions of the Instrument of Government they have - over and above their purely legal effect - a significant function in helping to form public opinion.

24. On 1 January 1995, Sweden incorporated the European Convention for the Protection of Human Rights and Fundamental Freedoms into national law (SFS 1994:1219). At the same time a more precise definition of the right of property was introduced in the Instrument of Government (chap. 2, sect. 18).

Also, two new fundamental rights and liberties were introduced in the Instrument of Government, namely, the protection for trade and profession (chap. 2, sect. 20) and the right to education (chap. 2, sect. 21). These changes have led to some amendments in the Instrument of Government relating to the rights of alien residents, namely in the above-mentioned chapter 2, section 22, paragraph 1, subsections 9 and 10 and paragraph 2, subsection 9, and section 22.

25. A new constitutional law, the Fundamental Law on Freedom of Expression, entered into force in 1992. In Sweden, freedom of expression in the media is regulated in the Freedom of the Press Act and the Fundamental Law on Freedom of Expression, which both have constitutional law status. The Freedom of Expression Act is a compilation of statutes covering almost all current electronic media, such as radio, television, video and motion pictures. Both Acts are based on the same principles.

26. All citizens are guaranteed the freedom to express ideas, opinions and emotions on any subject in the media. The only restrictions allowed are those provided for in the two Acts, which also specify when an utterance in the media is a punishable offence. If sanctions are to apply, the utterance in question must also be punishable under the Penal Code.

27. In accordance with the main principles, criminal liability for media content rests with the person registered as the responsible editor. If no editor has been appointed, the person who should have made such an appointment is responsible. Prior censorship of press, radio and television by public authorities is prohibited, but the Fundamental Law on Freedom of Expression allows for legislation on censorship and the scrutiny of films and video tapes which are to be shown publicly.

28. Under chapter 7, section 4, subsection 11 of the Fundamental Law on Freedom of Expression and under chapter 5, section 1 of the Fundamental Law on Freedom of Expression, agitation against an ethnic group whereby a person threatens or expresses contempt for a population group or other such group with allusion to race, skin colour, national or ethnic origin or religious creed is a criminal offence.

29. Apart from penalties to which the author, the responsible editor, the publisher and the printer are subject, offences against the Freedom of the Press Act as well as the Fundamental Law on Freedom of Expression may lead to damages and confiscation of the publication in question.

30. Except as otherwise provided for in the Freedom of the Press Act or the Fundamental Law on Freedom of Expression or elsewhere by law, foreign nationals are to be equated with Swedish citizens (Freedom of the Press Act, chap. 14, sect. 5 and the Fundamental Law on Freedom of Expression, chap. 11, sect. 1). Currently, there are no such restrictions relating to foreigners.

Swedish penal legislation

31. Under chapter 16, section 8 of the Penal Code, any person who in a statement or other communication which is disseminated, threatens or expresses contempt for an ethnic group or other such group of persons by making allusion to race, colour, national or ethnic origin or religious creed, shall be

convicted of agitation against an ethnic group. The penalty for this is imprisonment for a maximum period of two years or, for minor offences, a fine.

32. Another provision of the Penal Code (chap. 16, sect. 9) which makes ethnic discrimination punishable concerns unlawful discrimination. In accordance with the provisions contained in the first paragraph of this section, a businessman who in the conduct of his business discriminates against a person on the ground of his race, skin colour, national or ethnic origin or religious creed in that he fails to deal with that person under the terms and conditions normally applied by the businessman in the course of his business with other persons, shall be convicted of unlawful discrimination and sentenced to a fine or to imprisonment for a maximum period of one year. The subsequent paragraphs of the section state that this also applies to a person employed in such a business or who is otherwise acting on behalf of the businessman, and to a person employed in public service or who has a public duty, or to an organizer of a public assembly or gathering and to any assistant of such an organizer if they discriminate in the same manner by refusing access to the public assembly or gathering.

33. Under chapter 5, section 3 of the Penal Code, insulting conduct in the form of accusations or insulting epithets or other outrageous conduct is punishable. The penalty is a fine or, if the offence is grave, imprisonment for not more than six months. Insulting a person with allusion to ethnic origin is an offence subject to public prosecution.

34. Protection against racist actions is also provided for in chapter 16, section 5 of the Penal Code concerning incitement to rebellion.

The Act on Damages

35. Under chapter 1, section 3 and chapter 5, section 1 of the Act on Damages, a victim of insulting conduct or of unlawful discrimination may, apart from compensation for economic loss, be awarded damages for mental suffering to which he has been subjected as a result of the offence.

The criminal justice system

36. Within the criminal justice system, different efforts have been made to counteract racism and xenophobia and the Government has instructed the police that effective measures should be taken against crimes that are committed with racist or similar motives.

37. The Prosecutor-General has taken several initiatives with the purpose of achieving more efficient investigations of reported crimes of a racist or similar character. The Prosecutor-General has, for example, examined all cases of unlawful discrimination handled by the prosecutors in the three largest cities in Sweden, Stockholm, Göteborg and Malmö, during the years 1992 to 1994. This examination has caused the Prosecutor-General to underline, inter alia, that cases concerning unlawful discrimination must be given high priority and that it is important that evidence is secured at an early stage in order to make it possible to properly assess objections from an alleged perpetrator.

38. In February 1996, the National Council for Crime Prevention started a special research project concerning racist violence and counter-violence.

According to the results so far, the crimes with racial motives have increased since 1980. Since 1991 there has also been anti-racist counter-violence. The violence between the two groups has escalated and become more serious. According to the results, attacks on refugee camps are often carried out by unorganized persons while racist violence in the streets more often is carried out by organized racists.

39. The National Council for Crime Prevention is working on a report on crime among immigrants. According to the Council, the results so far show that immigrants (foreign nationals or Swedish nationals who are born abroad) are clearly over-represented among persons suspected of crimes. During a period of five years, 12 per cent of immigrants have been suspected of an offence, compared with 6 per cent of Swedish nationals without an immigrant background (immigrant background meaning at least one parent born abroad). The differences can only to a lesser degree be explained by factors such as sex, age, social background or residency. The over-representation is most pronounced for the more serious types of crime. The complete report will be published during the autumn of 1996.

The Act against Ethnic Discrimination

40. Information was provided in the eleventh periodic report about the Government Bill against Ethnic Discrimination. This Government Bill was passed by the Swedish Parliament in March 1994. The new Act against Ethnic Discrimination came into force on 1 July 1994. The new legislation supplements the previous provisions applicable to the work of the Ombudsman against Ethnic Discrimination (the 1986 Act against Ethnic Discrimination). The following describes both the provisions that have been transferred from the 1986 Act and the new provisions that prohibit ethnic discrimination in working life.

41. According to section 1 of the Act, ethnic discrimination is treating a person or a group of persons unfairly in relation to others, or subjecting a person in any other way to unjust or insulting treatment because of race, colour, national or ethnic origin or religious creed.

42. Pursuant to the Act, section 2, the Government has appointed an Ombudsman against Ethnic Discrimination who shall strive to ensure that ethnic discrimination does not occur in working life or in other areas of society. The Ombudsman shall by advice and other means assist anyone subjected to ethnic discrimination to safeguard his or her rights. The Ombudsman shall also, by means of consultations with authorities, companies and organizations and by influencing public opinion, disseminate information and by similar means initiate measures against ethnic discrimination.

43. The Ombudsman shall, according to section 4 of the Act, make special efforts to prevent job applicants from being subjected to ethnic discrimination. The Ombudsman shall maintain contact with employers and the relevant labour market organizations to promote good relationships between different ethnic groups in working life.

44. In accordance with section 5 of the Act, the Government has appointed a Board against Ethnic Discrimination to advise the Ombudsman on matters of

principle concerning the application of the Act and to propose to the Government legislative changes or other measures to counteract ethnic discrimination.

45. Section 6 of the Act states, inter alia, that an employer is required, when so directed by the Ombudsman, to attend meetings and supply any information pertaining to the employer's relationship to job applicants and employees which the Ombudsman may require for his/her activities in the field of working life. If the employer fails to comply with the Ombudsman's directives, the Ombudsman may prescribe a default fine.

46. The new legislation, which applies to the entire labour market, is based on two anti-discrimination provisions prohibiting unfair special treatment on ethnic grounds (race, colour, national or ethnic origin or religious creed). The connection between the ethnic factor and the employer's actions means that the actions must have been based on race, colour, etc. to be deemed illegal. In other words, the ethnic factor must be an indispensable element in explaining the employer's actions. One prohibition covers the treatment of job applicants and the other the treatment of employees.

47. Section 8 of the Act, concerning discrimination against a job applicant, states that a prospective employer may not subject a job applicant to unfair treatment by disregarding him/her because of his or her race, colour, national or ethnic origin or religious creed. The provision applies if the employer has engaged someone other than the person subjected to discrimination. The violation of the prohibition occurs in connection with the decision to employ the other person. Thus, discriminatory behaviour during recruitment is not covered per se by the prohibition, but if someone else has been hired as a result of discrimination, the employer may be held responsible for his actions.

48. If discrimination is to be established, the treatment must have been motivated by differences that are not based on objective grounds. The considerations taken into account by the employer must appear to be acceptable and rational to an outsider if it is to be considered that objective reasons have motivated the employer's actions.

49. The requirement of unfairness means that the prohibition is not applicable, for example, if a religious community employs a person of the same denomination for religiously oriented duties in preference to someone of another faith.

50. Section 9 of the Act against Ethnic Discrimination concerning discrimination against an employee covers three different situations in which an employer is prohibited from treating an employee unfairly because of an ethnic factor. The provision states that an employer may not unfairly subject an employee to special treatment because of his or her race, colour, national or ethnic origin or religious creed by:

(a) Applying unfavourable terms of employment or other working conditions;

(b) Directing or assigning work in a way which is clearly unfavourable to the employee; or

(c) Giving notice, dismissing, laying off or taking other comparable action against the employee.

51. According to the Act against Ethnic Discrimination, an employer is liable to furnish information at the request of a person who suspects that he or she is being subjected to discrimination.

52. A job applicant who was not employed or an employee who was not promoted or selected for training and who suspects that he or she has been subjected to unfair treatment is entitled, on request, to receive written information from the employer on the nature and scope of the training, occupational experience and other comparable qualifications of the person who received the job or training position instead. The Ombudsman against Ethnic Discrimination may support such a request and if the employer fails to comply with the Ombudsman's directive, the Ombudsman may prescribe a default fine.

53. The chief sanction against breaches of the prohibition against discrimination is damages. If a job applicant is subjected to discrimination, the employer shall pay damages to the person or persons for the infringement the discrimination represents.

54. In case of discrimination against employees, both financial and general damages are payable. If an employee is subjected to discrimination by the employer, the employer shall pay damages to the employee for the loss incurred and for the infringement the discrimination represents.

55. Cases concerning the prohibitions of discrimination and invalidity and damages shall be dealt with in accordance with the Act on Litigation in Labour Disputes.

56. In accordance with the Act against Ethnic Discrimination, section 17, the Ombudsman against Ethnic Discrimination is entitled to handle such a case on behalf of an individual employee or job applicant provided that the individual so permits and if the Ombudsman deems that a judgement in the dispute is important for the application of law, or if there are other special reasons for doing so.

Subparagraph (1)(e)

57. Various types of "multiracial organizations" have existed for a long time in Sweden. Some organizations consist of Swedes and a number of individual racial groups. Other organizations bring together groups of different ethnic background, such as the International Women's Club which consists of both Swedish and immigrant women. Other "multiracial organizations" are coordinating organizations, such as Muslim organizations, African organizations and immigration associations which organize a large number of racial and national groups. Many of them have activities which directly or indirectly aim at facilitating the integration of immigrants into Swedish society. Some have drawn up special action programmes for this purpose.

58. Municipalities, the National Immigration Board and the Government provide funding for projects and activities for NOGs and other associations in many different areas of society where Swedes may work together with people of immigrant origin in a whole range of matters with the intention of bringing

people together and increasing the understanding of other people and other people's values. The purpose is to achieve integration as an indirect effect of common activities towards common goals in different areas of society.

59. Swedish organizations are encouraged to include immigrants in their activities. Many immigrant organizations, such as sport clubs, have also increasingly included native Swedes in their activities. Immigrant organizations are obvious cooperation partners for the State and the local authorities in their struggle to facilitate the integration of immigrants into Swedish society.

Paragraph 2

60. In 1995, the right of trading or practising a profession was introduced as a new fundamental right and liberty in the Instrument of Government (chap. 2, sect. 20). According to the section, the right of trading and to a profession may be restricted only in order to protect important public interests and never solely in order to favour certain persons or companies financially. The section also states that the right of the Sami people to practise reindeer-breeding is regulated by law. By giving a constitutional basis for laws governing the exclusive right of the Sami people to practise reindeer-breeding, it is made clear that this right is not in conflict with the right of trading or practising a profession.

61. The right of the Sami people to practise reindeer-breeding is not based on ownership of the land, but on usufruct, i.e. a strongly protected right to use the land that has been sanctioned since time immemorial. The proprietorial rights to the land may thus be invested in another person. The right to practise reindeer-breeding enjoys the same protection against expropriation that is enjoyed by full proprietorial rights (see chap. 26 of the Reindeer Husbandry Act). Under Swedish legislation, proprietorial rights may not be expropriated except as a measure to satisfy some public interests that are listed in law, such as defence or natural environmental protection. In addition, the individual is protected against expropriation or some other compulsory disposal according to the Constitution (the Instrument of Government, chap. 2, sect. 18). If the right to breed reindeer is abolished or restricted, the person who loses this right is entitled to compensation for expropriation. This means that he or she is entitled to compensation for encroachment involved in the action as well as for other damages resulting from the action (see chap. 1, sect. 4 and chap. 4, sect. 1 of the Expropriation Act). The right to compensation is also protected in the Constitution.

62. As mentioned in the tenth report (para. 44), a government committee has proposed that the special status of the Sami as an ethnic minority and as an indigenous population in Sweden should be stated in the Instrument of Government. However, the Government found that the Instrument of Government already gives the Sami people the needed constitutional protection. Therefore, the proposal has not led to any constitutional changes in this respect.

63. The Sami Parliament was established because it was considered desirable that the Sami had an elected representative body with public legal status. This implies recognition of the Sami as a specific people. The Sami Parliament is an independent elected body whose duties and authority are

prescribed by the Sami Parliament Act, enacted in 1992. The fundamental duty of the Sami Parliament is to promote a vital Sami culture. Culture is to be seen in a wider perspective which includes Sami economic activity. This means that the Sami Parliament can freely bring up and make suggestions in any area which the Parliament deems to be of special interest with regard to vital Sami culture.

64. The Sami Parliament is also a public administrative authority but given the objectives of this body, considerable freedom has been given to the Parliament in determining its own mode of work. The scope of the mandate of the public administrative authority is basically to allocate governmental subsidies, resources from the Sami Fund and from other sources made available to the Sami to Sami culture and Sami organizations and to appoint the board of directors for the Sami school.

65. Other important responsibilities of the Sami Parliament are to direct the work related to the Sami language and to disseminate information about the situation of the Sami people. In addition, the Sami Parliament may appoint committees to prepare, administer and carry out the Parliament's decisions as it finds necessary.

66. The decision-making body is the plenary session of the Sami Parliament when other arrangements have not been made. Since the Sami Parliament is not in session to the extent necessary to administer routine matters, it has appointed an executive council. The executive council has the responsibility of running the operation and therefore making necessary decisions. The executive council of the Parliament also prepares the agenda for the plenary sessions, carries out the decisions made by the Sami Parliament and executes the mandates given to the council. The executive council is also responsible for giving directions and coordinating the task of formulating the overall goals, guiding principles and framework for the total activity of the Parliament.

67. The policy-making body of the Sami Parliament consists of 31 members. Sessions are conducted by a presidium whose chairperson is commissioned by the Government upon recommendation of the Sami Parliament, in accordance with the Sami Parliament Act. The Sami Parliament has an administrative office headed by a director. The administration of the Parliament is responsible for the daily activities and preparations of the agenda for the executive council and parliamentary sessions and for public information concerning the Sami Parliament.

68. Since the Sami Parliament has been in operation for only two years it is too early to evaluate its activities. However, there seems to be an overall opinion that the establishment of a Sami Parliament has brought about an increase in political activity amongst the Sami.

69. Sami elementary education is administered by the Sami School Board. As well as a specifically Sami elementary school, the Sami can receive Sami preschool and secondary school education in the provinces where the Sami live (for further information, see below under art. 5(e) (v)).

Article 3

70. There is no racial segregation or apartheid in Sweden.

71. The provisions in the Penal Code for punishment by fines or imprisonment for statements or actions that involve discrimination on ethnic grounds are presented under article 2.

Article 4

Subparagraph (a)

72. As mentioned above under article 2, dissemination of racist propaganda is punishable in accordance with the Penal Code, chapter 16, section 8.

73. As mentioned earlier, persecution of a population group whereby a person threatens or expresses contempt for a population group or other such group with allusion to its race, skin colour, national or ethnic origin or religious creed is made a criminal offence in the Freedom of the Press Act (chap. 7, sect. 4, subsect. 11) and in the Fundamental Law on Freedom of Expression (chap. 5, sect. 1).

74. The Swedish security police is focusing its work within the area of constitutional protection on preventing the establishment of firm structures within hard-core right-wing extremist groupings and preventing politically motivated violence or other criminality. This work is carried out in close cooperation with foreign security services or police organizations. The security police also examines violence against immigrants, refugees and refugee camps in order to measure the extent of this violence and to see whether it is part of an organized racist activity.

75. It is often complicated to establish whether a crime is based on racism or xenophobia or if there are other motives. The security police has therefore looked especially at the incidents concerning refugee camps. The statistics from 1993 indicate that the attacks on refugee barracks have not been organized. On the contrary, they generally seem to have been committed on impulse. The preliminary results for 1994 indicate that the more serious crimes against refugee camps and refugees living there have decreased considerably. However, it should be mentioned that the number of refugee camps and refugees has also decreased.

76. The Swedish security police is expected to present reports with more reliable information on the extent of crimes committed with racial or similar motives in the spring of 1997 (concerning crimes committed 1994). Both in 1993 and in 1994, six persons were convicted for agitation against an ethnic group (chap. 16, sect. 8 of the Penal Code). In 1994, one person was convicted of unlawful discrimination (chap. 16, sect. 9 of the Penal Code).

Subparagraph (b)

77. According to a change in the Instrument of Government (chap. 2, sect. 14, para. 2), it is possible to limit the right of association under the law as regards two types of organizations: associations which involve military activities and associations whose operations involve the persecution of an ethnic group or of a certain race, colour or ethnic origin.

78. Chapter 16, section 8 of the Penal Code concerning agitation against an ethnic group includes a prohibition of dissemination of racist statements or information not only to the general public but also within the organization.

In practice, this means that such organizations are forced to become totally passive and thus obviating the need for further legislation, including a direct ban on racist organizations.

79. As mentioned in the tenth periodic report (CERD/C/209/Add.1, paras. 8, 27-36 and 76-80) and in the eleventh report (CERD/C/239/Add.1, paras. 6-11), the Government set up a commission in May 1990 with the task of studying measures to counteract ethnic discrimination. The following may be added to the information submitted in the previous reports.

80. The commission considered that the Swedish legislation per se satisfies the requirements of the International Convention on the Elimination of All Forms of Racial Discrimination. According to the commission, a reasonable reading of the Convention is that the States parties are obliged, in their domestic legislation, to make it impossible for racist organizations to operate, and to forbid the individual from participating in racist activities. However, this obligation does not necessarily need to be fulfilled by means of an outright prohibition of racist organizations as such.

81. In December 1993, the Government submitted a bill to Parliament based on the proposals put forward by the commission. The Government considered that there were reasons for strengthening the protection against offences committed from racist or similar motives. The Government therefore proposed a new provision in the Penal Code (chap. 29, sect. 2) which entered into force on 1 July 1994.

82. According to this provision, it should be regarded as aggravating circumstances - which should be reflected in the severity of the punishment - if a crime is committed with motives to offend a person or a national or ethnic group or other such group of persons because of race, skin colour, national or ethnic origin, religious creed or any similar circumstance. Accordingly, Swedish police, prosecutors and judges shall pay special attention to motives of this character. This provision is applicable to all kinds of crimes.

83. It has to be noted that manifestations of racism are criminalized as agitation against an ethnic group also when not made in public. The prohibition applies, for example, to manifestations which take place only within an organization. It is therefore not possible for a racist organization to exercise any activities without breaking the law.

84. In a report, the Government has suggested that the Swedish law of 1933 banning the wearing of uniforms or similar clothing that exhibits political opinions should be replaced by a new provision in the Penal Code in connection with the prohibition on agitation against an ethnic group through unlawful use of offensive symbols. The provision would make it punishable to wear the swastika or other similar symbols related to serious persecution of an ethnic group. The penalty would be a fine or imprisonment for not more than six months. The report has been sent to courts, public authorities and organizations for comments.

Subparagraph (c)

85. There is no Swedish regulation which permits the authorities to promote racial discrimination. On the contrary, such activities are expressly

forbidden under the Instrument of Government and in the provisions in the Penal Code regarding unlawful discrimination noted under section 2. The provisions in the Penal Code concerning agitation against an ethnic group also apply to persons in public employment.

Article 5

Subparagraph (a)

86. In accordance with chapter 1, section 9 of the Instrument of Government, the courts and the public authorities and others which carry out functions within the public administration are obliged, in the course of their duties, to observe the equality of all persons under the law and maintain objectivity and impartiality.

87. The rules of the Swedish Code of Judicial Procedure are established in accordance with the principle mentioned above. Thus, there are no special provisions based on race or ethnic origin.

Subparagraph (b)

88. In accordance with chapter 2, section 5 of the Instrument of Government, every citizen is protected against corporal punishment as well as against torture and any medical influence for the purpose of extorting or preventing statements. Under chapter 2, section 22, subsection 2 of the Instrument of Government, foreigners are treated on a basis of equality with Swedish citizens in this respect.

89. In addition, every citizen, in accordance with chapter 2, section 6 of the Instrument of Government, is protected in relation to the public administration against any enforced encroachment on his body in other cases. This freedom and right may be restricted by law under certain circumstances (chap. 2, sect. 12 of the Instrument of Government). Such restrictions may only be made for the achievement of a purpose which is acceptable in a democratic society. Such a restriction may not be made on grounds of political, religious, cultural or other ideas.

Subparagraph (c)

90. Every citizen over the age of 18 who is or has been living in Sweden has the right to vote in general elections.

91. Sweden is one of the few countries in the world where non-citizens, regardless of their origin, are entitled to vote and be elected in local elections. Three years of legal residence is, however, required.

92. In the local elections in 1994, 293,000 non-Swedish citizens were entitled to vote. They represented 4.3 per cent of the total number of persons entitled to vote in the elections. About 118,000 aliens voted, i.e. 40 per cent of those aliens entitled to vote. The participation by the whole electorate in these elections was about 84 per cent. Participation was highest among the Chileans; 59 per cent. The participation was lowest among people from the territory of the former Yugoslavia and the Greeks; about 27 per cent. Below are shown the statistics of participation in local elections from 1976 to 1994 by country of citizenship:

Percentage of voters of those entitled to vote

Country of citizenship	1976	1979	1982	1985	1988	1991	1994
Chile	-	-	-	77	70	65	59
Denmark	57	46	49	46	41	42	45
Ethiopia	-	-	-	-	-	-	34
Finland	56	51	49	45	39	35	40
Greece	76	65	61	49	46	37	28
Iraq	-	-	-	-	-	-	42
Iran (Islamic Rep. of)	-	-	-	38	39	41	41
Italy	61	60	58	52	50	44	49
Former Yugoslavia	66	56	52	45	38	35	27
Norway	59	54	52	49	45	46	42
Poland	64	59	54	47	40	36	32
United Kingdom	71	57	55	54	50	48	48
Turkey	63	62	61	54	54	51	47
Germany	67	64	61	59	52	51	51
United States	45	45	47	45	44	43	40
All citizens of foreign countries	60	53	52	48	43	41	40

93. Researchers are still not in a position to explain the reasons for the low - and declining - participation by aliens in local elections. It deserves to be pointed out that there has been extensive information directed to immigrants and their organizations before the elections, partly made possible by State grants to political parties and immigrant organizations.

94. As regards the right to hold public employment or receive public assignments, there are no formal barriers or restrictions related to race, skin colour or national or ethnic origin. However, Swedish citizenship is required for certain posts, for example to be a judge or a prosecutor, in the higher ranks of central Government, in the armed forces and in certain other types of public employment.

Subparagraphs (d) (i)-(vi)

95. Under the Swedish Constitution, no discrimination on racial, ethnic, religious or cultural grounds is permitted regarding the rights evoked in these paragraphs.

Subparagraphs (d) (vii)-(ix)

96. Chapter 2, section 1 of the Instrument of Government provides the following rights for all citizens in their relation with the public administration:

(a) Freedom of expression: the freedom to communicate information and to express ideas, opinions and emotions, whether orally, in writing, in pictorial representations, or in any other way;

(b) Freedom of information: the freedom to obtain and receive information and otherwise acquaint oneself with the utterances of others;

(c) Freedom of assembly: the freedom to organize or attend any meeting for information purposes or for the expression of opinions or for any other similar purpose or for the purpose of presenting artistic work;

(d) Freedom to demonstrate: the freedom to organize or take part in any demonstration in a public place;

(e) Freedom of association: the freedom to unite with others for public or private purposes; and

(f) Freedom of worship: the freedom to practise one's own religion either alone or in the company of others.

As mentioned under article 2, foreigners shall be equated with Swedish citizens in respect of these rights, unless otherwise provided by special rules of law (see chap. 2, sect. 22 of the Instrument of Government).

Subparagraph (e)

97. Under the present system regarding the reception of refugees, the State authorities and municipalities are jointly responsible for the reception of refugees. Almost all municipalities have made agreements with the National Immigration Board to receive a certain number of refugees every year. In cooperation with each refugee concerned, each municipality is to set up an individual introductory plan which, inter alia, includes accommodation, Swedish language training, introduction to Swedish society and the labour market, studies, work and rehabilitation. The aim of the introduction plan is to give every refugee an opportunity to live and function independently in Swedish society and to be able, as soon as possible, to earn his own living.

98. The responsibility of municipalities to promote integration of immigrants is not restricted to the introductory phase. But after this phase, municipalities in principle receive no economic compensation for the costs for refugees - the same applies for Swedes. It is becoming increasingly important for municipalities to intensify their work in this area also after the introductory phase. This work is well under way, both within different municipalities and in cooperation between municipalities. Cooperation between various local authorities and NGOs involved in local refugee reception has also improved and grown intensively.

99. A commission appointed by the Government has been given the specific task of studying the conditions in areas with a high concentration of

immigrants and to propose, inter alia, measures aiming at a better use of existing resources and assets for positive developments in these areas. The final report is due in July 1997.

Subparagraph (e) (i)

100. A general labour market and immigrant policy is that the employment problems of immigrants and refugees are to be tackled mainly through general labour market measures. Alternative solutions and strategies concerning both the general labour market policy and the immigrant policy have been presented by a parliamentary commission on immigrant integration policies. (See information provided under Part I.)

101. A recent government bill (1994/95:218) to Parliament on a new labour market policy draws the attention to immigrants' need for supportive measures. The Swedish Parliament authorized the expenditure of a maximum of SKr 5 million by the National Labour Market Board, through national employment offices, on special information efforts to promote the entry of refugees and immigrants into the labour market. One objective was to break down the resistance of employers to employing non-Scandinavian immigrants and refugees. Part of the money was used for employing more temporary staff, especially at employment offices in areas with a high concentration of immigrants.

102. The European Social Fund's third goal aims to combat unemployment among vulnerable groups. Immigrants are among those who receive priority in the Swedish programme. Some SKr 180 million have been made available for this purpose in the 1995/96 fiscal year, of which SKr 60 million have been set aside to be used in the three metropolitan districts most heavily populated by immigrants. The National Labour Market Board has drawn up a programme for this target group together with the Ministry of Labour.

103. From autumn 1996 until spring 1999, the URBAN initiative will be in operation, having the comprehensive goal of breaking down negative trends currently found in the three metropolitan housing areas. The work will be based on a network created at local level and aimed at people who are outside the labour market for reasons of health, labour market or psycho-social problems. The target group will include both Swedes and immigrants.

104. In order to strengthen competence and increase participation in the labour market, and to contribute to a positive social development and prevent marginalization in big city areas with a high concentration of immigrants, the Government has decided to contribute SKr 125 million to eight municipalities for use in local projects, set up and operated by the municipalities concerned, in cooperation with immigrants' organizations. The municipalities are to contribute at least the same amount as they receive from the Government. An important aim is to initiate and support local processes with new actors and to develop new methods and structures that may also be of use outside the municipality concerned.

105. A number of influential companies, organizations and government agencies have taken the initiative to bring about better opportunities for refugees and immigrants in the Swedish labour market. The purpose is to increase employment and decrease unemployment, particularly for youths, in order to prevent the development of xenophobia and racism. In addition, multicultural competence is viewed as a way of promoting effective organizations. The

initiative has been named Sweden 2000. The Government has decided to contribute to the funding of this during 1996 to 1999. For the years 1996 and 1997, SKr 2 million will be granted each year.

106. An office will be set up shortly, with the main task of serving the members of Sweden 2000 in collecting factual material and with distribution of information concerning experiences, know-how about multicultural competence and positive experience. The office will be supported by the Swedish Government.

107. The social partners have recently committed themselves in a joint declaration stressing the importance of preventing racism and xenophobia and promoting equal opportunities at work. The declaration expresses the need to create a democratic, pluralistic society built on solidarity and respect for the equality of all people.

108. The Government has decided that research on the situation of immigrants in the labour market is a priority area in the field of research on international migration and ethnic relations.

109. The Government has commissioned the Swedish Immigration Board to make a survey of the extent to which people of immigrant origin are employed by four different government agencies. The report was put forward in July 1996. According to the report, 11.2 per cent of all those employed at the surveyed agencies were either born abroad or have at least one parent born abroad, while among the population as a whole people with such background constitute 20.2 per cent of the population. The highest number of employed with refugee or immigrant background is found within lower posts, and the lowest number among the higher posts. Second-generation immigrants show higher figures; in fact, in some agencies their share corresponds to their share of the total population. The report states that in order to draw conclusions about the reasons behind the findings, more facts have to be known about the individuals, e.g. when they arrived to Sweden, their age, education and ambitions.

110. The Swedish Immigration Board monitors the need for measures to further the situation of immigrants and is particularly aware of their position and difficulties in the labour market. To complement the work of the Ombudsman against Ethnic Discrimination and increase awareness of discrimination in working life, the Immigration Board has kept the existence and types of discrimination, mechanisms and counteraction under observation. This has been done through the Board's regional organizations' contacts with research, authorities, labour market bodies, immigrant associations and widespread mass media coverage. The Immigration Board summarizes the results of this work in reports which, together with supplementary programmes of action, form the basis for initiating and coordinating the work in this area.

Subparagraph (e) (ii)

111. The right to form and become a member of a trade union is protected both in the Instrument of Government (chap. 2, sect. 1, subsect. 5) and in other legislation. Regarding this right as protected in the Instrument of Government, foreigners have equal status with Swedish citizens.

Subparagraph (e) (iii)

112. Under Swedish law, no discrimination on racial, ethnic, religious or cultural grounds is permitted regarding the right to housing. For the purpose of assisting municipalities with high concentrations of immigrants to counteract housing segregation, a government commission will propose housing policies. The Commission's work was due to be finalized in September 1996.

Subparagraph (e) (iv)

113. The objective of health and medical services is good health and treatment on equal terms for all. This objective is laid down explicitly in the Health and Medical Services Act (1982:763). Generally, public health has shown positive development in Sweden. There are, however, certain signs indicating that immigrants have poorer health than Swedes. A report from the National Board of Health and Welfare (SoS report 1995:5) shows that the groups of immigrants who were the subject of the study were in a poorer state of health than Swedes of the same sex, age and socio-economic group.

114. The Government has appointed a committee with the task of drawing up national health objectives. The committee is to work on the assumption that the overall objective is good health for all, with special emphasis on reducing the differences in state of health between different groups of the population.

115. Another course of action taken by the Government is aimed at victims of torture and trauma who have come to Sweden as refugees from the former Yugoslavia. During the fiscal year 1994/95, the Swedish Parliament set aside Skr 50 million for improved rehabilitation of immigrants, including refugees who have suffered torture and trauma.

116. According to the Social Services Act (1980:620), the local authorities have the ultimate responsibility to ensure that people living within the local authority area obtain the support and help they need. According to the Act, the social welfare board should work to prevent and counteract abuse of alcohol and other addictive substances. Work aimed at children and young people should be given special attention in this connection.

117. Alcohol abuse is rare among immigrants from countries other than the Nordic countries. Alcohol abuse thus occurs by and large among Swedes and immigrants with a Nordic background. This is due largely to the differences in drinking patterns between Nordic and other cultures. As far as drug abuse among immigrants and immigrant youth is concerned, an increase in serious abuse has been reported in recent years according to the National Board of Health and Welfare. However, there are few reliable figures available.

118. According to studies carried out by the Central Association for Alcohol and Drug Information, first-generation immigrants over the age of 25 are under-represented among heavy drug abusers. Second-generation immigrant youth, from Nordic and other countries, is, however, over-represented. In conclusion, available figures indicate that adult immigrants are not substance abusers to a greater extent than Swedes, seen in relation to their proportion of the population. On the other hand, drug problems are more common among younger, second-generation immigrants.

119. The local authorities receive an annual State grant for their work in the care of substance abusers. This work, which is subject to government inspection and evaluation, may be tailored to suit the individual, observing respect for the integrity of the individual as stated in social legislation. The work is not carried out on the basis of ethnic origin, but should be aimed at everyone living in a local authority area who is in need of support and care.

Subparagraph (e) (v)

120. A fundamental principle in the Swedish educational system is equal access to education. It is regulated in the School Act that all children and young persons, regardless of sex, residential locality and social and economic circumstances, shall have equal access to education in the public school system.

121. In Sweden there are also independent schools. For an independent school to be approved, the school must provide education that essentially corresponds to that provided by the municipal school. The school shall have the same general goals as a municipal school and it shall be open to all, i.e., it shall not in its admission rules exclude or discriminate against individuals.

122. In order to facilitate integration into Swedish society, measures have been taken to give immigrants special education. From 1 July 1995, Swedish as a second language is a subject of its own and the curriculum indicates the purpose, structure, character and goals for the different types of schools.

123. The municipalities shall provide home language instruction for immigrant children. Municipalities may offer home language instruction either within the timetable or after the school day. With the new curricula and the new timetables for compulsory schools and upper secondary schools, which both recently have been implemented in the schools, home language instruction can replace instruction in a second foreign language and it may also be offered as an individual or local choice.

124. Pupils belonging to the "Tornedal Finns" - most of them living in the northern parts of Sweden - are entitled to home language instruction to a greater extent than pupils with an immigrant background. Where appropriate, Roma pupils are entitled to education in both Romani and in another mother tongue. However, few Roma pupils follow the home language instruction.

125. Other measures have been taken concerning adult immigrants. In accordance with the School Act as amended in 1994, every municipality is responsible for providing basic education in Swedish for immigrants over the age of 16, as soon as possible and at the latest within three months after their arrival in Sweden. The course of study aims at providing basic education in the Swedish language and about Swedish society.

126. The municipality must work together with the local employment agency to ensure that the course can be combined as soon as possible with working experience which gives the students the opportunity to practise speaking. By law, an immigrant employee is entitled to leave of absence to attend such courses. For younger persons, the necessary Swedish language training is provided within the ordinary school system.

127. The number of students in higher education has increased substantially during the last few years. More than 5 per cent are foreign students, most of whom are immigrants. The level of educational attainment among those who have immigrated in the years of 1991 to 1994 is high. The percentage with postgraduate studies among foreign citizens is as high as among Swedish citizens. As to Swedish citizens with an immigrant background in higher education, there are no statistics, but it is reasonable to assume that these students largely follow the study patterns of students of Swedish origin.

128. Sami children are entitled to attend a Sami school instead of an ordinary primary school. Today, there are six Sami elementary schools in Sweden. The schools receive State subsidies and are thus free of charge. In these schools, children not only study the subjects offered in the municipal elementary schools, but also receive education in the Sami language and culture. In some of the elementary schools in the northern region, the teaching of the Sami language and culture is integrated into the curriculum of the municipal schools.

129. Since 1942, there has been a Sami folkhögskola (folk high school education) in Jokkmokk. At this facility, there are special programmes with Sami subjects such as handicrafts and reindeer-breeding.

130. At the University of Umeå, there is a special department for Sami studies and a professorial chair in the Sami language. This department also organizes courses with Sami subjects throughout the northern area of Sweden.

Subparagraph (e) (vi)

131. Under Swedish law, no discrimination on racial, ethnic, religious or cultural grounds is permitted regarding the rights provided for in this paragraph.

Subparagraph (f)

132. Regarding the provisions of the Penal Code relating to unlawful discrimination, see the information under article 2.

Article 6

133. Legislative protection against discriminatory actions is described under article 2. As mentioned under article 5 (a), courts and administrative authorities are obliged to take into account the equality before the law of all persons and to observe objectivity and impartiality.

134. As regards compensation for victims of insulting conduct or unlawful discrimination, reference is made to the information given under article 2.

135. A committee report (SOU 1994:151), with a proposed Act on Group Litigation, was delivered in 1994. The committee proposes that it should be possible for group actions to be brought in civil proceedings (consumer claims), in matters concerning environmental protection and damage and in matters concerning equal opportunities, by private citizens, certain organizations and by representatives of the State or a municipality.

136. The committee is of the opinion that ethnic discrimination is another area where reform measures may be called for and that there is good reason to consider whether the Ombudsman against Ethnic Discrimination should be given power to institute proceedings. The time available to the committee has not permitted further investigation of that question. The report of the committee has been sent to authorities and organizations for comments and is at present being scrutinized within the Ministry of Justice.

Article 7

137. As reported in the eleventh Swedish report, the previous Government planned to set up a commission against racism and xenophobia with a two-year mandate. Because of the importance of these questions, the present Government has decided that there is a need for a permanent function to, inter alia, monitor, initiate and coordinate work against racism and xenophobia as well as to report to the Government about measures that should be undertaken. Different organizational alternatives as well as changes in the legal provisions are now being actively considered.

138. For a number of years, the Government has had at its disposal funds to be used for measures against racism and xenophobia. During the previous fiscal year this sum amounted to Skr 28 million and for the present fiscal year to Skr 27 million. Part of the money has been used for a three-year activity by four national agencies responsible for schools, culture, young people and immigrants. The agencies have been commissioned by the Government to work, both by themselves and together, against racism and xenophobia. The main aim has been to foster, in a long-term perspective, young people's norms, attitudes and behaviour towards immigrants and people of different origin. The agencies have, for example, collected and disseminated knowledge, experiences and working methods against racism and xenophobia in different areas of society. A large number of projects have been initiated.

139. An important conclusion drawn from this work is that xenophobia is not only about immigrants or ethnic minorities; it is a problem concerning tolerance in general, which must involve the whole of society. To a substantial degree, young people who have become marginalized - unable to integrate - are the ones who bully, harass and attack others, including immigrants and ethnic minorities. Another conclusion is that childhood conditions and social background are more important phenomena than "cultural differences" in shaping norms, attitudes and values.

140. The Swedish Immigration Board has an important role to play in promoting tolerance and good ethnic relations. The Board uses different methods to contribute to this goal. Besides the important task of promoting integration, it provides advice and financial support for the establishment and activities of immigrant organizations. It also funds and supports projects aimed at increasing contact and cooperation between the majority population and immigrant groups and between different immigrant groups.

141. The Immigration Board disseminates knowledge and working methods on ethnic relations by producing and distributing material, giving advice and support to, inter alia, other authorities, different professional groups and organizations, providing training to various types of personnel, arranging seminars and conferences for different target groups and running its own

research activities. Moreover, the Immigration Board supports NGOs and other associations in their activities to form public opinion. Priority is given to such activities directed to children and young people.

142. In 1994, the Immigration Board, together with a large number of NGOs, initiated a campaign entitled "The Network - Together" for the purpose of involving native Swedes and established immigrants as "guides" to recently arrived refugees. The main aim was to increase the opportunity for refugees to come in contact with the majority population and to facilitate their integration into Swedish society. The underlying idea was that the basis of these contacts would be common interests, such as work, education, families, leisure time activities or outlook on life.

143. The campaign led to an extensive network of contacts throughout the country. Several voluntary organizations, churches and associations have supported the initiative. Activities are continuing in most of the country's local authorities and today there are over 5,000 guides.

144. In 1995, a youth campaign against racism, xenophobia, anti-Semitism and intolerance was run, following the decision at the Vienna Summit of European Heads of State in 1993. The campaign was supervised by a national committee with complete autonomy under the Ministry of Culture. The Committee represented youth organizations, immigrant organizations for young people, the governmental bodies concerned, local youth projects as well as young celebrities.

145. The committee has in various ways supported and facilitated young people's own initiatives against xenophobia and racism and in favour of tolerance and understanding between people with different cultural background. The main tasks of the Committee were to:

(a) Initiate actions to foster public opinion on the subject, in particular activities directed towards young people;

(b) Encourage young people to engage in the campaign at the local level;

(c) Produce documentation and publications regarding various methods to stimulate young people's own activities in the field;

(d) Diffuse ideas and experiences which have come forward through the campaign.

In the governmental budget, Skr 11 million were allocated for the central campaign activities and Skr 5 million for financing local campaign activities. Apart from government funding, major events were also to a certain degree sponsored by a number of companies.

146. The Swedish Immigration Board and the Nordic Council of Gypsies have jointly worked out a report to highlight the situation of Roma and to promote equality, freedom of choice and partnership. On the basis of this report, which was published in January 1996, the Immigration Board will intensify its work to ameliorate the situation of Roma.

147. The problems concerning ethnic discrimination directed towards the Sami people is not a very significant problem in Sweden. On the other hand, there is still reason to take action against prejudices which, if unchallenged, may lead to ethnic discrimination. In this context the Swedish Government decided to set up a committee on behalf of the International Decade of the World's Indigenous People.

148. The committee's main task is to disseminate information about the Sami people, their language and culture by means of seminars, exhibitions, newsletters, etc. The committee consists of members representing the Sami people, the Ministry for Foreign Affairs, the Ministry of Agriculture and the Ministry of Culture. The Committee has organized seminars on issues relating to the Sami people, arranged activities in relation to the International Day of Indigenous People, etc.

149. The Ombudsman against Ethnic Discrimination has in his work in raising awareness and fostering tolerant attitudes among children and young people, organized a nation-wide essay competition. The competition was announced for pupils of 15 to 16 years, on the subject of racism and intolerance. This competition was given a very high profile and it was linked to the International Day.

150. The basic training of police officers in Sweden includes instructions on the Universal Declaration of Human Rights, the United Nations Code of Conduct for Law Enforcement Officials and the European Convention on Human Rights. The basic training of police officers also includes a special course about immigration policy. During this part of the training, the reasons behind immigration, the multi cultural society and the legislation concerning immigrants, etc., are studied in order to promote a better understanding of ethnic minorities.

151. In Spring 1996, the National Police Board arranged a seminar concerning racism and xenophobia. During the seminar information was given about the work of the Ombudsman against Ethnic Discrimination and the security police relating to these issues, different racist groups, legislation, racism in the media, music, etc. Information from the seminar will be collected in a book which will be distributed to all police districts in Sweden. The National Police Board is planning a follow-up to the seminar during the autumn of 1996. At the follow-up seminar, the Board will present a manual for the police with strategies against racism and xenophobia.

152. The National Police Board has drawn up a policy document in which it is stated that the composition of the personnel in the police service should reflect the country's population structure. In the recruitment work it is stressed that the police service needs more officers who belong to ethnic minorities.

153. The School Act stipulates that all school activity shall be carried out in accordance with fundamental democratic values and that each and every person working in the school shall encourage respect for the intrinsic value of each person. The new curriculum for compulsory schools as well as the new curriculum for non-compulsory schools (upper secondary school and adult

education) state that schools shall encourage understanding of other people and the ability to feel empathy. Xenophobia and intolerance must be actively confronted with knowledge, open discussion and effective measures.

154. The internationalization of Swedish society and increasing cross-border mobility put great demands on people's ability to live together and appreciate the values that are to be found in cultural diversity. Awareness of the individual's own cultural origin and sharing a common cultural heritage provides a secure identity which is important to develop. The school as a social and cultural meeting place shall foster this ability among all who work there. In order to increase knowledge of human rights, the National Agency for Education has published a leaflet with the main international human rights standards.

155. A special commission shall, inter alia, consider in what way the school can take advantage of the fact that Swedish society is multi-cultural and use it as a resource in its work. The commission's deliberations in this respect were due to be presented by 31 August 1996.

156. Special funds have been allocated for development endeavours to combat racism and xenophobia in schools. The result is very encouraging. The activities carried out go far beyond the activities for which funds have been allocated. The schools want to continue on their own without financial support from the State. The most important conclusion to draw is that the work against racism and xenophobia must be based on the situation of the local school.

157. In the Higher Education Act, it is stated that universities and university colleges should in their activities encourage understanding of other countries and of international conditions. Special research on international migration and ethnic relations has been carried out for many years. There are strong and creative research groups at most Swedish universities. In 1990 a new research council, the Council for Social Research, was founded with an explicit responsibility for research on international migration and ethnic relations. Adding to the activities of the already existing research councils and other funding organizations, this meant a substantial increase in the funding available for research projects in these areas. The attention of researchers from various disciplines to problems relating to migration and ethnicity has steadily been growing.

158. In 1993, the Centre for Research in International Migration and Ethnic Relations at the University of Stockholm together with Statistics Sweden carried out a scientific survey on the attitudes of Swedes towards immigrants and immigration. Similar surveys were made in 1969, 1981 and 1987. A number of questions have been put to those interviewed, both about themselves and about their reactions to a series of statements about immigrants and immigration. According to the survey, xenophobia has not increased, rather decreased somewhat, and only very few of those interviewed can be said to have held blatantly xenophobic attitudes. The majority seems to hold a tolerant or immigrant-friendly attitude. However, extreme right-wing groups have become more active and visible.

159. In 1995, another similar survey of the attitudes among Swedes towards immigrants was carried out. One conclusion from this survey was that racism and xenophobia had decreased somewhat since 1993. A lower proportion than in 1993 was strongly xenophobic and a higher proportion was not at all xenophobic. The majority of those interviewed were not xenophobic at all or only to an inconsiderable extent. As far as attitudes towards immigration or immigration policies were concerned, the majority was rather or very negative and critical while only 15 per cent were very positive.

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